

Carnegie Endowment for International Peace

DIVISION OF INTERNATIONAL LAW

Pamphlet No. 18

THE HAGUE CONVENTION (XI) OF 1907 RELA-
TIVE TO CERTAIN RESTRICTIONS WITH
REGARD TO THE EXERCISE OF THE
RIGHT OF CAPTURE IN
NAVAL WAR

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Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Varux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai-29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin-18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907*.

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D. C.,
December 23, 1914,

CONVENTION (XI) RELATIVE TO CERTAIN RESTRICTIONS WITH
REGARD TO THE EXERCISE OF THE RIGHT OF CAPTURE
IN NAVAL WAR

Signed at The Hague, October 18, 1907

His Majesty the German Emperor, King of Prussia; [etc.]:

Contracting Powers.

Recognizing the necessity of more effectively ensuring than hitherto the equitable application of law to the international relations of maritime Powers in time of war;

Purpose of Convention.

Considering that, for this purpose, it is expedient, in giving up or, if necessary, in harmonizing for the common interest certain conflicting practices of long standing, to commence codifying in regulations of general application the guarantees due to peaceful commerce and legitimate business, as well as the conduct of hostilities by sea; that it is expedient to lay down in written mutual engagements the principles which have hitherto remained in the uncertain domain of controversy or have been left to the discretion of Governments;

That, from henceforth, a certain number of rules may be made, without affecting the common law now in force with regard to the matters which that law has left unsettled;

Have appointed the following as their plenipotentiaries:

Plenipotentiaries.

[Here follow the names of plenipotentiaries.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

CHAPTER I.—*Postal Correspondence*

Postal correspondence.

ARTICLE 1

The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

Inviolable on high seas.

Forwarding from captured ships.

Blockaded ports.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

ARTICLE 2

Neutral mail ships.

The inviolability of postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

Vessels exempt from capture.

CHAPTER II.—*The Exemption from Capture of Certain Vessels*

ARTICLE 3

Fishing vessels and boats in local trade.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

Military use forbidden.

The contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE 4

Religious, scientific, etc., vessels.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

Captured merchant ships.

CHAPTER III.—*Regulations Regarding the Crews of Enemy Merchant Ships Captured by a Belligerent*

ARTICLE 5

Disposition of crew and officers, if neutral.

When an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE 6

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

Conditional release of officers and crew, if enemies.

ARTICLE 7

The names of the persons retaining their liberty under the conditions laid down in Article 5, paragraph 2, and in Article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Notification by captors.

ARTICLE 8

The provisions of the three preceding articles do not apply to ships taking part in the hostilities.

Ships not included.

CHAPTER IV.—*Final Provisions*

ARTICLE 9

The provisions of the present Convention do not apply except between contracting Powers, and then only if all the belligerents are parties to the Convention.

Powers bound.

ARTICLE 10

Ratification.

Deposit at The Hague.

The present Convention shall be ratified as soon as possible.

Ratification.

Deposit at The Hague.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the

Certified copies to contracting Powers.

Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 11

Adherence of
non-signatory
Powers.

Notification
of intent.

Communication
to other Powers.

Effect of
ratification.

Non-signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 12

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification has been received by the Netherland Government.

ARTICLE 13

Denunciation.

Notifying Power
only affected.

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE 14

Register of
ratifications.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 10, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 11, paragraph 2) or of denunciation (Article 13, paragraph 1) have been received.

Each contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers invited to the Second Peace Conference.

[Here follow signatures.]

Signing.

Deposit
of original.

RATIFICATIONS, ADHESIONS AND RESERVATIONS

The foregoing Convention was *ratified* by the following signatory Powers on the dates indicated:

Austria-Hungary	November 27, 1909
Belgium	August 8, 1910
Brazil	January 5, 1914
Denmark	November 27, 1909
France	October 7, 1910
Germany	November 27, 1909
Great Britain	November 27, 1909
Guatemala	March 15, 1911
Haiti	February 2, 1910
Japan	December 13, 1911
Luxemburg	September 5, 1912
Mexico	November 27, 1909
Netherlands	November 27, 1909
Norway	September 19, 1910
Panama	September 11, 1911
Portugal	April 13, 1911
Roumania	March 1, 1912
Salvador	November 27, 1909
Siam	March 12, 1910
Spain	March 18, 1913
Sweden	November 27, 1909
Switzerland	May 12, 1910
United States	November 27, 1909

Adhesions:

Liberia	February 4, 1914
Nicaragua	December 16, 1909

The following Powers signed the Convention but have not yet ratified:

Argentine Republic	Italy
Bolivia	Paraguay
Bulgaria	Persia
Chile	Peru
Colombia	Servia
Cuba	Turkey
Dominican Republic	Uruguay
Ecuador	Venezuela
Greece	

Reservations: none.

